



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

NOV 03 2017

Shiva Ayyadurai  
Shiva 4 Senate  
701 Concord Avenue  
Cambridge, MA 02138

RE: MUR 7245

Dear Mr. Ayyadurai:

The Federal Election Commission previously notified you and Shiva 4 Senate of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended. On October 26, 2017, the Commission found, on the basis of the information in the complaint and its supplements, that there is no reason to believe you or Shiva 4 Senate and Kate Lind, in her official capacity as treasurer (the "Committee"), violated 52 U.S.C. § 30104(a) and (b). Also on this date, the Commission exercised its prosecutorial discretion and dismissed the allegation that the Committee violated 52 U.S.C. § 30120(a) and (c). Accordingly, on October 26, 2017, the Commission closed the file in this matter.

Documents related to the case will be placed on the public record within 30 days. See Disclosure of Certain Documents in Enforcement and Other Matters, 81 Fed. Reg. 50,702 (Aug. 2, 2016). The Factual and Legal Analysis, which explains the Commission's findings, is enclosed for your information.

If you have any questions, please contact Wanda Brown, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,

*Jeff S. Jordan* by *Wb*  
Jeff S. Jordan  
Assistant General Counsel

Enclosure -  
Factual and Legal Analysis

1704443-512

**FEDERAL ELECTION COMMISSION**

**FACTUAL AND LEGAL ANALYSIS**

RESPONDENTS: Shiva Ayyadurai MUR 7245  
Shiva 4 Senate and  
Kate Lind as treasurer

**I. INTRODUCTION**

This matter was generated by a Complaint alleging that Shiva Ayyadurai, 2018 candidate for U.S. Senate from Massachusetts, and Shiva 4 Senate and Kate Lind in her official capacity as treasurer (the "Committee") violated the Federal Election Campaign Act of 1971, as amended (the "Act"), by failing to file a disclosure report with the Federal Election Commission (the "Commission") and by failing to include adequate disclaimers on a campaign flyer, campaign emails, and a campaign website. The Commission finds no reason to believe that the Committee violated 52 U.S.C. § 30104(a) and (b) by failing to file a disclosure report with the Commission, and exercises its prosecutorial discretion to dismiss the allegation that the Committee violated 52 U.S.C. § 30120(a) and (c) by failing to include adequate disclaimers on a campaign flyer.

**II. FACTUAL AND LEGAL ANALYSIS**

The Complaint alleges that the Committee violated the Act and Commission regulations by failing to file a 2017 April Quarterly disclosure report.<sup>1</sup> The Complaint contends that Ayyadurai registered as a candidate on or about March 22, 2017, but did not file a 2017 April Quarterly report, even though the Committee had a website, collected contributions, and distributed a mailer at issue in this matter.<sup>2</sup> Further, the Complaint alleges that the Committee

<sup>1</sup> Compl. at 1 (May 5, 2017).

<sup>2</sup> Comp. at 1; *see also* Compl. Attach. 1.

1 failed to include a printed box around a disclaimer on a campaign flyer.<sup>3</sup> The Complainant also  
2 filed three supplements to the complaint raising various disclaimer allegations: committee emails  
3 did not contain a printed box around disclaimers, the candidate's website disclaimer was not  
4 inside a printed box, and disclaimers on other Committee materials were insufficient or difficult  
5 to read.<sup>4</sup>

6 The Committee contends that it did not have to file a 2017 April Quarterly report because  
7 it did not raise or spend over \$5,000 by the end of the reporting period.<sup>5</sup> The Committee  
8 explains that it was being "overcautious" by filing its statement of organization before it  
9 exceeded the monetary thresholds.<sup>6</sup> Further, the Committee states that the website at issue is  
10 actually a blog the candidate maintained before becoming a candidate, and he used the blog to  
11 share notices of public events related to health, medicine, technology, and innovation.<sup>7</sup> The  
12 Committee admits that Ayyadurai posted campaign information on the blog, but states that it will  
13 ensure that future campaign emails and flyers contain compliant disclaimers.<sup>8</sup>

14 When an individual becomes a "candidate,"<sup>9</sup> the Act requires the candidate to file a  
15 Statement of Candidacy designating a candidate's principal campaign committee within fifteen  
16 days, and requires the principal campaign committee to file a Statement of Organization no later

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<sup>3</sup> Compl. At 1; *see also* Compl. Attach. 2. The Complaint also alleges that the Committee should include the last name of the candidate in its own name. The Act makes no such requirement, so we make no recommendations as to this allegation.

<sup>4</sup> Supp. Compl. 1 (June 19, 2017); Supp. Compl. 2 (June 23, 2017); and Supp. Compl. 3 (July 10, 2017).

<sup>5</sup> Resp. at 1-2 (July 28, 2017).

<sup>6</sup> *Id.* at 2.

<sup>7</sup> *Id.* at 1.

<sup>8</sup> *Id.* at 1.

<sup>9</sup> 52 U.S.C. § 30101(2); 11 C.F.R. § 100.3.

1 than ten days after the candidate's designation.<sup>10</sup> The Act and the Commission's regulations  
2 require each treasurer of an authorized political committee to file quarterly reports of receipts  
3 and disbursements.<sup>11</sup> A candidate and committee may voluntarily register and report before the  
4 candidate and the committee pass the relevant thresholds in the Act, but such filings are not  
5 required.<sup>12</sup>

6 A "public communication" is defined as a "communication by means of any broadcast,  
7 cable or satellite communication, newspaper, magazine, outdoor advertising facility, mass  
8 mailing, or telephone bank to the general public, or any other form of general public  
9 advertising."<sup>13</sup> The regulations further require that disclaimers for printed communications must  
10 be conspicuous and clearly state that they are paid for or authorized by a candidate or candidate's  
11 committee, state the committee's street address, telephone number, or web address, be of  
12 sufficient type size to be readable, and be in a printed box set apart from the rest of the  
13 communication.<sup>14</sup>

14 A review of the Committee's disclosure reports indicates that the Committee had not met  
15 the reporting threshold by March 31, 2017.<sup>15</sup> Since there is no information suggesting that the  
16 Committee was required to file a 2017 April Quarterly report, the Commission finds no reason to  
17 believe that the Committee violated 52 U.S.C. § 30104(a) and (b). Further, although the

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<sup>10</sup> 52 U.S.C. §§ 30102(e)(1) and 30103(a).

<sup>11</sup> 52 U.S.C. § 30104(a), (b); 11 C.F.R. §§ 104.1, 104.3(a), (b), 104.5(a).

<sup>12</sup> 11 C.F.R. § 104.1(b).

<sup>13</sup> 11 C.F.R. § 100.26.

<sup>14</sup> 52 U.S.C. § 30120(a), (c); 11 C.F.R. § 110.11(a)-(c).

<sup>15</sup> The Committee timely filed its 2017 July Quarterly report, which disclosed receipts and disbursements beginning from the time the Candidate filed with the Commission in March 2017.

1 Committee's communications did not contain wholly compliant disclaimers, the violations are  
2 technical in nature, and the Committee contends it has corrected the disclaimer in its Committee  
3 emails and has added disclaimers to the Candidate's personal blog.<sup>16</sup> Therefore, given the  
4 corrective action of the Committee, as well as the *de minimis* nature of the disclaimer violations,  
5 and in furtherance of the Commission's priorities, relative to other matters pending on the  
6 Enforcement docket, the Commission exercises its prosecutorial discretion to dismiss the  
7 allegation that Shiva 4 Senate and Kate Lind in her official capacity as treasurer violated 52  
8 U.S.C. § 30120(a) and (c).<sup>17</sup>

<sup>16</sup> The Complaint's allegation that disclaimers on websites and emails need to be inside a printed box is unfounded because such materials are not considered to be "printed." See 52 U.S.C. § 30120; 11 C.F.R. § 110.11(b) and (c)(2). See also Statement of Reasons, Comm'rs. Weintraub, Walther, Lenhard, Mason, Toner & von Spakovsky at 4, MUR 5526 (Graf for Congress, *et al.*) ("print" does not include communication on Internet pages and "neither the printing nor the existence of a printout transforms the Internet page itself into a printed communication" and "when FECA uses the words "Internet," "web," "website," or "electronic," or forms of these words, it does not mean something ordinarily understood as being in print or in printed form"); see also MUR 6662 (Heidi for Texas Campaign, Inc.) (emails do not fall under the definition of "public communications," and thus were not required to include disclaimer); MUR 6591 (Tom Stilson) (the Commission found no reason to believe that the committee's website needed to meet the "printed materials" requirements for its disclaimer); and MUR 6406 (Lee Terry for Congress, *et al.*) (the Commission found no reason to believe that a printed box was required around a disclaimer on an Internet campaign advertisement).

<sup>17</sup> *Heckler v. Chaney*, 470 U.S. 821 (1985).